# The Hall, 2<sup>nd</sup> Floor, Memorial Hall Library, 2 N. Main St., Elm Sg., Andover

The meeting opened at 7:08 p.m.

Present were: Anderson (Chair); McDonough (Clerk); Brown (Member); Magenheim & Bargnesi (Associate Members).

Petition No.: 4027

Premises affected: 3 Penacook Place

Petitioner: Lebranti

Members: Anderson (Chair); McDonough (Clerk); Brown (Member); Magenheim & Bargnesi (Associate Members)

Rich Lebranti, owner, represented himself in his request for a special permit under Art. VIII, § 3.1.3.F.4 to create a family dwelling unit for his father-in-law, whose health is declining. The unit will be inside part of a recent addition, containing a bed room, bath room, egress, and kitchen. When requested by Anderson, Mr. Lebranti submitted a physician's letter regarding his father-in-law's health & need for constant care/supervision. Brown informed the applicant that once the need for the current occupant(s) ceases, the unit must be reintegrated into main house. Anderson explained the 5-year duration of such a special permit with the option to renew prior to expiration. There being no further questions or comments from the Board or the public, Brown made a motion to close the public hearing. McDonough seconded the motion & the Board voted (5-0) to close the public hearing. The Board then proceeded to deliberate. Brown made a motion to grant a special permit under Art. VIII, § 3.1.3.F.4 for a maximum of 5 years with the following conditions:

- 1. Occupancy is limited to Mr. & Mrs. Gary Hamilton (as listed in the application);
- 2. Upon discontinued / lapse in use, the kitchen from the family dwelling unit shall be removed & the structure revert to a single family dwelling;
- 3. The Special Permit is granted for a maximum of 5-years with the option to renew prior to expiration.

McDonough seconded the motion and the Board voted (5-0) to grant the special permit with conditions. Bargnesi will write the decision.

Petition No.: 4026

Premises affected: 197 Andover Street

Petitioner: B&D Realty

Members: Anderson (Chair); McDonough (Clerk); Brown (Member); Magenheim & Bargnesi (Associate Members)

Attorney Andrew Caffrey, 1 Elm Sq., Andover, represented the petitioners. They are requesting a variance from Art. VIII, §3.1.3.A.4.a &/or a special permit under Art. VIII, §3.1.3.4.A & 7.6.2 to convert an existing single family dwelling in the GB district to a 2-family dwelling. In 2004, by Decision No. 3462, the same relief was granted but never exercised by the prior owner/petitioner. The house, built in the mid-1800's, abuts the train tracks and Shawsheen River in the center of Ballardvale. A tract of land along the river was deeded for an access easement. The shape of the lot, as well as the proximity to the river limits the property's use. Caffrey submitted photos and the assessor's map, along with a registered plan depicting compliance with off-street parking requirements. The driveway will be used to access the river as well as the residence, but is limited to pedestrians for river access. The only changes to the house will be internal. All of the previously completed external changes were approved by the Ballardvale Historic District Commission. The first floor will be a 2-bedroom unit, while the 2<sup>nd</sup> & 3<sup>rd</sup> floors will be a 1-bedroom unit with loft. Anderson suggested to Caffrey that one of the units could be restricted as an affordable unit. Caffrey stated that the location will keep the price of the rental units affordable, but that such a restriction had not been considered. McDonough made a motion to close the public hearing. Magenheim seconded the motion & the Board voted (5-0) to close the public hearing. The Board then proceeded to deliberate. McDonough made a motion to approve a use variance and a special permit for the conversion of the existing single family dwelling. Brown seconded the motion including a finding that the property meets the condition of Section 7.6.2, as well as referencing & affirming the previous decision & conditions as unchanged, as well as conservation commission approval being granted. The Board voted (5-0) to grant the variance & special permit with conditions, as amended. Magenheim will write the decision.

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Petition No.: 4024

Premises affected: 31-33 High Street

Petitioner: Rayner

Members: Anderson (Chair); McDonough (Clerk); Brown (Member); Magenheim & Bargnesi (Associate Members)

Cindy Rayner, owner, represented herself requesting special permits under Article VIII, Sections 3.1.3.A.4.a, 7.6.1 &/or 7.6.2 to convert an existing 2 family dwelling to a 3 family dwelling. The house was built in 1796, moved in 1857 with the carriage house being built later. She has occupied the house for 15 years. Since 2006, she has been trying to remain in the house while capitalizing on the property. Previously she was approved to convert from a 2 to 3 family, but did not exercise the approval. Currently, she has an interested buyer who has a signed P&S with the contingency that 3-family approval is granted. The 3<sup>rd</sup> unit would be in the existing carriage house, at the rear of the main house. The parking, as approved in 2006, would remain the same with pea stone ground cover. Anderson asked for public input. Member Brown disclosed that he renovated the kitchen of this house 30 years ago, but there is no connection to the current owner. No one objected to his participation. Debra Day-Cummings, 67 High St., voiced concern on behalf of the neighborhood that the 3<sup>rd</sup> unit is already in use. However, if the ZBA legalizes the unit, there is no objection. Bill LeBlanc, spoke in support on behalf of Nancy Hevehan, of 26 High St. McDonough read an email from Jean & Kim Kaminski, of 9 Maple Ct., voicing concern & opposition. Brown asked for the number of bedrooms in each unit. Rayner stated that in #31 High Street there are 2.5 bedrooms, in #33 there are 4-5 bedrooms and in the carriage house there are 2 bedrooms. Anderson asked Ms. Rayner if she is willing to rescind the prior approval for historic preservation, especially as granted in Decisions 3782 & 3784 (2008) that allowed subdivision of the lot. Rayner agreed to rescind the prior decisions if granted approval tonight. McDonough made a motion to close the public hearing. Magenheim seconded the motion & the Board voted (5-0) to close the public hearing. The Board then proceeded to deliberate. McDonough made a motion to approve the special permits under Art. VIII, Sections 3.1.3.A.4.a, 7.6.1. & 7.6.2 to convert a two family to a three family dwelling with the condition that there will be no exterior changes to the property and that any pre-existing permits on the property, including the 2008 Decision No. 3782 & 3784, be nullified & no further subdivision & no further intensification of the property be allowed. Magenheim seconded the motion and the Board voted (5-0) to approve with conditions. Magenheim will write the decision.

Petition No.: 4025

Premises affected: 6 Prospect Road

Petitioner: Jeffco

Members: Anderson (Chair); McDonough (Clerk); Brown (Member); Magenheim & Bargnesi (Associate Members)

Attorney Mark Johnson represented the Petitioner's request for a variance from Art. VIII, Section 4.1.2 &/or a special permit under Art. VIII, Sections 3.3.5 &/or 3.3.7 to raze the existing non-conforming single family dwelling and construct a new single family dwelling that will not meet the minimum front setback requirement on a lot that lacks frontage and area. The lot is in the SRB district. Johnson submitted photos & revised plans for the new house. They have been before Preservation Commission & will make changes to the plan based on the Commission's feedback. Engineer Bill McLeod gave an overview of the proposed house vs. the existing, including wetlands. The proposed house complies with the 200' average front setback of 25.8', where 27' is proposed. The Board discussed setting the house back an additional 13' to comply with the minimum setback. The lot is serviced by Town water/sewer. Doug Ahern, builder, gave an overview of the proposed house that will include 2600 sq. ft. area as well as the changes requested by Preservation Commission (3 dormers, chimney, shutters, & different windows). The Board discussed the number of stories related to the change in elevation from the front to the rear of the house. The house is proposed to be 18" higher to improve drainage. The height is 32', 2.5 stories with dormers in the attic. There were no public questions or comments. Brown pointed out the lack of floor plans as required in the packet and requested the Preservation Commission conditions prior to final ZBA approval. Ahern & Johnson agreed to submit Preservation Commission conditions to the ZBA. Brown/Anderson asked the applicant to inform the Preservation Commission that the ZBA prefers removal of some/all

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of the dormers. Johnson submitted a draft decision that incorporates by reference the forthcoming Preservation conditions. Anderson suggested keeping the hearing open, voting in principal & asking for the draft decision at the June meeting without closing the public hearing tonight. McDonough made a motion to approve the special permit under Art. VIII, Section 3.3.7 to raze the existing non-conforming dwelling & construct a new single family dwelling as shown on the plans and documents revised tonight subject to Preservation Commission approval and to deny the variance from Art. VIII, Section 4.1.2 as moot. Magenheim seconded the motion & the Board voted tentatively (5-0) to approve the special permit with conditions & deny the variance as moot. Brown will write the decision.

Petition No.: 4028

Premises affected: 27 Enmore Street

Petitioner: Hayes

Members: Anderson (Chair); McDonough (Clerk); Brown (Member); Magenheim & Bargnesi (Associate Members)

John & Nicole Hayes represented themselves in their request to construct a 2-story addition that will not meet the minimum front or side yard depth requirements. The house is located in the SRA district & they have owned it for 9 years. Brown disclosed that at some point in the past he consulted with the applicant, but was not hired, and feels he can be impartial. There was no objection to his participation. Mr. Hayes explained the need for additional space in their existing 1500 sq ft home. The lot is uniquely shaped with a wooded rear yard. The proposed construction includes increasing the family room & adding a bathroom. Mr. Hayes submitted a letter of support from the direct abutters, Donald & Susan Levesque. Colin Callahan, builder for the Hayes', submitted photos of the property. McDonough made a motion to close the public hearing. Magenheim seconded the motion & the Board voted 5-0 to close the public hearing. The Board then proceeded to deliberate. Brown made a motion to approve a special permit to construct a 2-story addition subject to the following conditions: the addition shall be constructed in substantial conformance with the plot plan and plans submitted and that the addition is no closer to the lot lines than the existing house. Brown also made a motion to deny the requested variance as moot. McDonough seconded the motion and the Board voted (5-0) to grant the special permit with conditions. Brown will write the decision.

Petition No.: 4029

Premises affected: 11 York Street

Petitioner: Salvi

Members: Anderson (Chair); McDonough (Clerk); Brown (Member); Magenheim & Bargnesi (Associate Members)

Walter Salvi represented himself in his request for a variance from 4.1.2 &/or a special permit under 3.3.5 to convert a ½ bath & hall into a ¾ bath & laundry room, said conversion/addition will not meet the minimum 15′ side yard depth minimum. Mr. Salvi had spoken to the direct abutters at 13 York St., who were not present. They expressed no opposition to him in person. ZBA Member David Brown submitted photos of the property that he had taken. Matt Lennon, rear abutter at 14 Carisbrooke St, spoke in support. The Board waived a site view. McDonough made a motion to close the public hearing. Magenheim seconded the motion & the Board voted (5-0) to close the public hearing. The Board then proceeded to deliberate. McDonough stated that a variance is appropriate due to the increase in the non-conformity. Brown noted that the house is exactly 30′ from the rear lot line, further limiting alternative locations for additions. Anderson pointed out that the newer plot plan depicts the house at 36′ from the rear lot line, appearing to be a discrepancy between the plan & the deed. McDonough made a motion to grant a variance from section 4.1.2 for the 1 story addition with the condition that it is constructed no closer to the left side lot line than 10′ and that it is constructed in substantial conformance with the plans submitted. Magenheim seconded the motion & the Board voted (5-0) to grant the variance with conditions. Brown made a motion to deny the special permit as moot. Magenheim seconded the motion & the Board voted (5-0) to deny the special permit as moot. McDonough will write the decision.

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Petition No.: 4030

Premises affected: 3 Walker Ave

Petitioner: O'Brien

Members: Anderson (Chair); McDonough (Clerk); Brown (Member); Magenheim & Bargnesi (Associate Members)

Krystina & Patrick O'Brien represented themselves in their request for a variance from 4.1.2 &/or a special permit under 3.3.5 to construct a 2-car garage/family room/porch addition plus a second story & attic addition over the existing 900 sq ft home. The home is at the end of a dead end street abutting the highway & City of Lawrence. Three residential abutters were present & voiced support for the project. The wood shed depicted on the plot plan will be kept. The metal shed will be removed. Brown made a motion to close the public hearing & waive a site view. McDonough seconded the motion & the Board voted (5-0) to close the hearing & waive the view. The Board then proceeded to deliberate. Brown felt a variance is appropriate for the substantial addition. Bargnesi made a motion to approve a variance from 4.1.2 for the construction / alterations with the following conditions: the additions to the front/side of the existing house shall not be any closer to the street than shown on the plot plan dated 4/16/12. The hardship is the unique setting with the on-ramp to Route 495 adjacent to the house / state owned property to the east & the existing placement of the house on the lot limiting expansion. Bargnesi also made a motion to deny the special permit as moot. McDonough seconded the motion & asked if the 3<sup>rd</sup> floor walk-up attic is living space. Mrs. O'Brien stated that it will eventually be converted to a playroom. The Board voted (5-0) to approve the variance with conditions & deny the special permit as moot. Bargnesi will write the decision.

#### Courtesy Notice – 3803 – River Street – Taylor Cove

Anderson disclosed that he and Attorney Borenstein, present tonight on behalf of Taylor Cove, have a common client, but feels that he can act impartially. There was no opposition to his being present for the Courtesy Notice presentation by Attorney Don Borenstein. Borenstein gave notice to the Board that the 3-year anniversary deadline / expiration of the comprehensive permit was tolled by appeals of other permits. On 7/17/12 the DEP issued a superseding order, which starts the 3-year period that would expire on 7/17/15. Anderson asked if the comprehensive permit holder was relying on the Permit Extension Act. Borenstein explained that it does not apply to comprehensive permits. Anderson stated that this discussion is for information purposes only, that no action has been requested of the Board. Borenstein agreed. Borenstein explained that counting the units in this project toward the SHI lapses after one year. However, when the building permits are issued, they can be counted again.

McDonough made a motion to accept the correspondence of Attorney Borenstein dated 3/12/13 regarding the anticipated expiration date of the comprehensive permit for Taylor Cove. Magenheim seconded the motion and the Board voted (5-0) to accept Borenstein's correspondence.

#### **Approval of Minutes:**

2/7/13 A – Bargnesi made a motion to approve the minutes of meeting A on 2/7/13. Brown seconded the motion and members McDonough, Bargnesi & Anderson voted to approve the minutes of 2/7/13 B.

2/7/13 B - Bargnesi made a motion to approve the minutes of meeting B on 2/7/13. Brown seconded the motion and members McDonough, Bargnesi & Anderson voted to approve the minutes of 2/7/13 B.

3/7/13 Bargnesi made a motion to approve the minutes of 3/7/13. Brown seconded the motion & members Anderson, Brown, Bargnesi, & Magenheim voted to approve the minutes of 3/7/13.

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There being no other business of the Board, McDonough made a motion to adjourn the meeting. Magenheim seconded the motion & the Board voted (5-0) to adjourn the meeting at 9:05 p.m.